

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chair, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the June 14, 2006
Board of Review Meeting

Date: June 16, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, June 14, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, June 21, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the, June 7, 2006 meeting were approved.

3. New Business

(a) 108,074

Ms. Gagliardo presented this case that involved a claimant who needed a driver's license to perform the work. The claimant's driver's license was suspended as of January 14, 2006. However, neither the claimant nor the employer were aware of that fact until February 6, 2006. The claimant was given thirty days to rectify the matter by the employer. His license was restored as of February 14, 2006. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board

noted that the record is lacking regarding what occurred after the claimant's license was restored. As a result, the Board voted to remand the case for additional testimony. Ms. Gagliardo will prepare the remand.

(b) 107,432

Ms. Futterman described this case that involved a claimant who was employed by an employer (employer #1), but performed the work for the employer's client (employer #2). He left work with employer #1 to accept work with the client employer. He was discharged from the client employer after one day and did not accept other work from employer #1. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that additional testimony is needed regarding the claimant's separation from both employer's and that employer #2 was not notified of the hearing. Also, whether there was a written agreement between the claimant and employer #1. As a result, the Board voted to remand the case. Ms. Futterman will prepare the remand.

(c) 107,401

As presented by Mr. Maddow, this case involved a claimant who stopped working as of April 27, 2005 due to a shoulder injury. Her physician certified she was unable to work until a follow up visit on May 25, 2005 and the claimant did not contact the employer until June 2005. At that time she was told not to report to work if she was ill. The claimant was able to perform light work as of February 14, 2006. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the record is lacking and does not support the conclusion. As a result, the Board voted to remand the case for additional testimony. Mr. Maddow will prepare the remand.

(d) 106,612

As described by Ms. Barnwell, this case involved a claimant who went on vacation and did not return at the scheduled time because she became ill and was out of the country. The employer instructed the claimant to provide medical documentation by a specific date or she would be terminated. The claimant did not provide the medical documentation as of the specified date or did not contact the employer until she returned home. She did not fax or mail the documentation because she felt the information would not remain confidential. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a) or N.J.S.A. 43:21-5(b). After discussion the Board voted to modify the Appeal Tribunal, holding the claimant disqualified for benefits under N.J.S.A. 43:21-5(b) as she was absent without contacting the employer and failed to provide medical documentation. Ms. Barnwell will prepare the decision.

(e) 107,453

Ms. Keller presented this case that involved a claimant who left work because he suffered a work related injury and could no longer perform the work due to the injury. Subsequent to his resignation, the claimant was offered other work by the employer. The claimant's physician advised him and the employer that he could not perform the offered work. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(a) as he left work with good cause attributable to the work and remanded the matter of whether the claimant refused without good cause to accept an offer of suitable work to the Deputy. After discussion, the Board voted to affirm the Appeal Tribunal in regard to the voluntary leave issue. The Board also voted to hold the claimant not disqualified for benefits under N.J.S.A. 43:21-5(c) as he had good cause to refuse the offer of work. Ms. Keller will prepare the decision.

(f) 108,373

Ms. Keller described this case of a claimant who obtained work as a substitute teacher through an agency from March 17, 2005 through May 13, 2005. The agency contends he was offered work after that date. The claimant stopped seeking work through the agency because he obtained work for the subsequent academic term without assistance of the agency. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the reason the claimant stopped working on May 13, 2005 is unclear. Also testimony is needed regarding his availability from May 13, 2005 to the end of the school year as well as if he refused work. As a result, the Board voted to remand the case for additional testimony. Ms. Keller will prepare the remand.

4. Public Portion

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

